



## MEMO ENDORSED

November 12, 2019

*Via ECF*

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DATE FILED: Nov. 14, 2019

The Honorable Edgardo Ramos  
Thurgood Marshall U.S. Courthouse  
40 Foley Square  
New York, NY 10007  
Telephone: 212-805-0294

**Re: *KPI Bridge Oil, Inc. v. Glencore Ltd.***  
**1:19-cv-02772**

Plaintiff's Request to Compel Defendant to Answer the Original Complaint  
Chalos & Co. Ref: 2422.008

Dear District Judge Ramos:

In accordance with the Local Rules of the United States District Court for the Southern District of New York and this Court's Individual Practices, Plaintiff KPI BRIDGE OIL, INC. (hereinafter "KPI" or "Plaintiff"), by and through its undersigned counsel of record, hereby submits this request to the Court to compel Defendant GLENCORE LTD. (hereinafter "GLENCORE" or "Defendant") to file an answer to Plaintiff's Original Complaint.

On March 28, 2019, Plaintiff filed an Original Complaint against Defendant pursuant to 28 U.S.C. §1333 and Rule 9(h) of the Federal Rules of Civil Procedure for breach of a maritime contract. *See* Doc. 1. This action arises out of two (2) bunker supply contracts between Plaintiff and Defendant whereby Defendant agreed to supply and deliver bunker fuel to the M/V CHEM VENUS and the M/V UAL COLOGNE. *See* Doc. 1, Exhibits 1 – 2; Exhibit 4. Defendant delivered contaminated bunker fuel to the M/V CHEM VENUS and to the M/V UAL COLOGNE which caused both vessels to experience problems. *See* Doc. 1. Plaintiff seeks to recover costs, fees, and expenses as a result of Defendant's breach of the two (2) bunker supply contracts in providing contaminated bunker fuel to the two (2) vessels. *Id.*

On April 29, 2019, Defendant filed a letter motion requesting that the Court set the matter for a pre-motion conference concerning an anticipated motion to dismiss to be filed by Defendant. *See* DE 10. Plaintiff filed a response to Defendant's request for pre-motion conference on May 2,



2019 requesting that this Honorable Court deny Defendant's request as the letter motion improperly seeks to resolve disputed facts on the merits. Plaintiff has satisfied the pleading burden with an Original Complaint that sets forth allegations with sufficient detail for this Court to determine that recovery for the breach of contract claims are plausible on their face. Accordingly, any attempted motion to dismiss would fail as a matter of law.

To date, Defendant has failed, neglected, and/or refused to answer Plaintiff's Original Complaint. This Honorable Court has not ruled on Defendant's letter motion and has not set the matter for a pre-motion conference. Accordingly, Plaintiff requests that the Court enter an order denying the letter motion and directing the Defendant to file an answer to Plaintiff's Original Complaint within fourteen (14) days of the order.<sup>1</sup>

In advance, we thank the Court for its time and attention to this matter.

Respectfully submitted,

CHALOS & Co., P.C.

/s/ Briton P. Sparkman

George M. Chalos, Esq.

Briton P. Sparkman, Esq.

cc: *Via ECF Only*

*Attorneys for Defendant  
Glencore Ltd.*

The letter motion to compel an answer is DENIED. A pre-motion conference will be held on December 3, 2019 at 10:30 A.M. The Clerk of the Court is respectfully directed to terminate the letter motion, Doc. 13. It is SO ORDERED.

Edgardo Ramos, U.S.D.J

Dated: Nov. 14, 2019

New York, New York

<sup>1</sup> Plaintiff will seek entry an of a default judgment against Defendant if Defendant fails to file a timely answer pursuant to Rule 55. See Fed. R. Civ. P. 55.